

HOUSE BILL 477

N2

0lr1546

By: **Delegate Dumais**

Introduced and read first time: January 24, 2020

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: February 25, 2020

CHAPTER _____

1 AN ACT concerning

2 **Estates and Trusts – Guardianship of the Property of Disabled Persons –**
3 **Court–Appointed Attorneys**

4 FOR the purpose of requiring the State to pay reasonable attorney’s fees incurred in
5 representing an alleged disabled person who is indigent in a petition for the
6 appointment of a guardian of the property of the person; requiring the court, under
7 certain circumstances, to appoint an attorney for the alleged disabled person who
8 has contracted with the Maryland Department of Human Services, subject to a
9 certain exception; making stylistic changes; and generally relating to guardianship
10 of the property of disabled persons.

11 BY repealing and reenacting, with amendments,
12 Article – Estates and Trusts
13 Section 13–211
14 Annotated Code of Maryland
15 (2017 Replacement Volume and 2019 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
17 That the Laws of Maryland read as follows:

18 **Article – Estates and Trusts**

19 13–211.

20 (a) **(1)** There shall be no jury trial in protective proceedings.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 **(2)** Procedures for notice to interested persons, the forms of petitions, and
2 the conduct of and requirements at hearings are as provided in the Maryland Rules.

3 (b) **(1)** Unless the alleged disabled person has chosen counsel, the court shall
4 appoint an attorney to represent the alleged disabled person in the proceeding.

5 **(2) IF THE ALLEGED DISABLED PERSON IS INDIGENT, THE STATE**
6 **SHALL PAY A REASONABLE ATTORNEY'S FEE.**

7 **(3) IN ANY ACTION IN WHICH PAYMENT FOR THE SERVICES OF A**
8 **COURT-APPOINTED ATTORNEY FOR THE ALLEGED DISABLED PERSON IS THE**
9 **RESPONSIBILITY OF THE LOCAL DEPARTMENT OF SOCIAL SERVICES, UNLESS THE**
10 **COURT FINDS THAT IT WOULD NOT BE IN THE BEST INTERESTS OF THE ALLEGED**
11 **DISABLED PERSON, THE COURT SHALL:**

12 **(I) APPOINT AN ATTORNEY WHO HAS CONTRACTED WITH THE**
13 **DEPARTMENT OF HUMAN SERVICES TO PROVIDE THOSE SERVICES, IN**
14 **ACCORDANCE WITH THE TERMS OF THE CONTRACT; AND**

15 **(II) IN AN ACTION IN WHICH AN ATTORNEY HAS PREVIOUSLY**
16 **BEEN APPOINTED, STRIKE THE APPEARANCE OF THE ATTORNEY PREVIOUSLY**
17 **APPOINTED AND APPOINT THE ATTORNEY WHO IS CURRENTLY UNDER CONTRACT**
18 **WITH THE DEPARTMENT OF HUMAN SERVICES, IN ACCORDANCE WITH THE TERMS**
19 **OF THE CONTRACT, UNLESS THE PREVIOUSLY APPOINTED ATTORNEY IS WILLING TO**
20 **ACCEPT THE SAME FEE AND THE COURT DOES NOT FIND A CONFLICT OF INTEREST.**

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2020.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.